IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8119 OF 2003

Balasaheb Malu Patil & Ors.... ... Petitioners.

Versus

State of Maharashtra and Ors..... Respondents.

Dr. V.K.Chaudhari for the Petitiones.

Mr. M. H. Solkar, AGP for Respondent Nos.1 to 3.

CORAM : S. A. BOBDE, J.

DATED : JANUARY 18, 2005.

P.C.:

Rule.

2. Mr. Solkar, learned Asstt. Government Pleader, appears and waives service of Rule on behalf of Respondent Nos.1 to 3.

3. By consent, Rule made returnable and taken up for hearing forthwith.

4. By this petition, the petitioners have questioned the order dated 29th August, 2002 passed by the Divisional Joint Registrar, Co-operative Societies,

Kolhapur, dismissing the petitioner's appeal against the order for recovery of a sum of Rs.93,454.20 from the petitioners.

5. Dr. Chaudhary, learned Counsel for the petitioners, submitted that the order of recovery is based merely on an audit report without issuing any show cause notice to the petitioners. There is no dispute about this fact on behalf of the respondents. Apparently, the petitioners have not been heard before the order of recovery was passed. In the circumstances, the impugned order is set aside. The matter is remitted back to the Assistant Registrar to take appropriate action against the petitioners in accordance with law after issuing a show cause notice and giving an opportunity of hearing to the petitioners. The petitioners shall be at liberty to withdraw the amount deposited by them in this court upon furnishing an undertaking to pay the same, if and when called upon by this Court. The said undertaking shall be furnished in this Court within a period of two weeks from today.

6. Rule made absolute in the above terms. Petition is disposed of accordingly.

Sd/-

S. A. BOBDE, J.